

REMARKS

By way of summary, independent claims 18, 20, 23, 24, 28, 31, 32, 33 and 35 have been amended. Claims 22, 26, 27 and 36 have been canceled. Accordingly, claims 18-21, 23-25, 28 and 31-35 are currently pending. No new matter has been added by way of this Amendment.

Claims Rejections Under 35 USC 102(e) - Elmaleh

Claims 18, 19, 22, 26 and 27 were rejected under 35 USC 102(e) as being anticipated by Elmaleh (U.S. Publication No. 2007/0093744).

Elmaleh discloses a thrombus filtering stent which includes a plurality of movable elements disposed along the mesh. The movable elements have magnetic/ultrasonic properties which are remotely activated. Elmaleh discloses that the elements are activated by an “exterior operated device.” The exterior operated device can be a magnetic stirrer or ultrasound vibrator and can take the form of a handheld portable device. The application of magnetism or ultrasound from the exterior operated device causes the element to move.

Independent claim 18 has been amended to further recite a “*rotatable drive mechanism adapted to contact and mechanically engage the agitation member for causing the agitation member to rotate relative to the filter body.*” Independent claim 18 also now recites that “*the drive mechanism is configured to be advanced through the blood vessel for releasable attachment to the agitation member after the agitation member and filter have been implanted in the blood vessel for causing the agitation member to break apart particles captured within the filter body.*”

There is no teaching or suggestion in Elmaleh regarding a rotatable drive mechanism which contacts and mechanically engages an agitation member for causing the agitation member to rotate relative to the filter body. The structure disclosed by Elmaleh in paragraphs 74-75 (noted by the Examiner) is an ultrasonic catheter. The ultrasonic catheter taught by Elmaleh merely provides an alternative means for breaking apart thrombus and plaque concentrations which were not broken apart by the movable elements. The ultrasonic catheter neither contacts nor mechanically engages an agitation member. The ultrasonic catheter does not cause the agitation member to rotate relative to the filter body to break apart particles captured within the filter body.

Claims Rejections Under 35 USC 103(a) - Elmaleh in view of Pavcnik et al.

Claims 31, 33 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Elmaleh in view of Pavcnik et al. (U.S. Patent No. 5,350,398).

Independent claim 31 has been amended to recite “*a drive mechanism having a distal end portion configured for mechanical attachment to the agitation member for rotating the agitation member with respect to the filter body.*” Independent claim 31 also now recites that “*the drive mechanism is advanceable through the blood vessel for releasable attachment to the agitation member after the filter body and agitation member have been fixed in the blood vessel for causing the agitation member to macerate emboli captured within the filter body.*”

As discussed above, Elmaleh merely discloses an ultrasonic catheter which can be used to break apart particle that were not broken up by the movable elements. There is no teaching or suggestion in Elmaleh regarding a drive mechanism having a distal end portion configured for mechanical attachment to an agitation member in a filter body for rotating the agitation member. Pavcnik et al. fails to overcome this deficiency.

Claims Rejections Under 35 USC 103(a) – Demarais et al. in view of Muni et al.

Claim 36 was rejected under 35 U.S.C. 103(a) as being unpatentable over Demarais et al. (US 2002/0151906) in view of Muni et al. (U.S. Patent No. 6,805,692).

Applicant disagrees with the Examiner’s assertion that it would have been obvious to combine Demarais et al. (US 2002/0151906) and Muni et al. to provide the claimed invention. For example, neither reference provides any teaching or suggestion regarding a filter body configured to be collapsed and withdrawn into an aspiration catheter. Furthermore, neither reference provides any teaching or suggestion regarding a rotational agitation member which is longitudinally advanceable to a location distal to the filter body. Rather, Demarais et al. merely disclose a maceration device which is contained within an expandible cage. The only axial translation disclosed by Demarais et al. relates to a proximal portion (320) of the macerator which may be moved back and forth to expand or contract the helical macerator structure (316) inside the expandible cage.

Although Applicant believes that claim 36 is in condition for allowance, claim 36 has been canceled to limit excess claim fees and to expedite allowance of the present application.

Applicant reserves the right to pursue the subject matter of claim 36 in a continuation application.

Allowable Subject Matter

Claims 20, 21, 23-25, 28, 32 and 35 have been objected to as being dependent upon a rejected base claim. Claims 20, 24, 28, 32 and 35 have been rewritten in independent form to include all of the limitation of the base claim. Claims 21 and 23 depend from claim 20. Claim 25 depends from claim 24. Applicant appreciates the Examiner's allowance of these claims.

Fees Due to File This Amendment

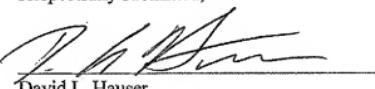
The aforementioned claim additions and cancellations have resulted in 7 independent claims. Prior to the pending Office Action, a fee was paid for 20 claims, with 3 of them being independent claims. The amount of \$440 has been charged to Applicant's credit card to cover the 4 excess independent claims.

Conclusion

In light of the foregoing amendments and remarks, Applicant earnestly believes that all the claims are now in condition for allowance. Should the Examiner have any remaining questions, the Examiner is encouraged to contact the Applicant at the telephone number shown below.

Date: 9/18/09

Respectfully submitted,



David L. Hauser
Registration No. 42,643
331 Monte Carlo Drive
Newport Beach, California 92660
Telephone: (949) 250-6878